SOUTHERN DISTRICT OF NEW YORK	3 7	
SECURITIES AND EXCHANGE COMMISSION,	: : :	No. 06 CV 2621 (LTS)
Plaintiff,	:	
– against –	:	
ANDREAS BADIAN, JACOB SPINNER, MOTTES DRILLMAN, JEFFREY "DANNY" GRAHAM, POND SECURITIES CORPORATION d/b/a/ POND EQUITIES, EZRA BIRNBAUM AND SHAYE HIRSCH,		
Defendants.	:	
	:	
	: · X	

UNITED STATES DISTRICT COURT

DECLARATION OF JOSHUA S. SOHN IN SUPPORT OF DEFENDANT ANDREAS BADIAN'S SUR-REPLY TO HIS MOTION FOR RECONSIDERATION PURSUANT TO LOCAL RULE 6.3

JOSHUA S. SOHN, an attorney admitted to the practice of law in the State of New York, declares pursuant to 28 U.S.C. § 1746 as follows:

- 1. I am admitted to the Bar of this Court and am a partner at DLA Piper LLP (US), counsel for Defendant Andreas Badian. I submit this declaration in support of Defendant Andreas Badian's sur-reply in further support of his motion for reconsideration pursuant to Local Rule 6.3.
- 2. Attached as Exhibit A is a true and correct copy of the Declaration of John Llanes, dated December 28, 2007 (without exhibits).
- 3. Attached as Exhibit B is a true and correct copy of the Supplemental Declaration of John Llanes, dated December 16, 2010.

- 4. Attached as Exhibit C is a true and correct copy of the deposition transcript of John Llanes, dated November 21, 2011.
- 5. Attached as Exhibit D is a true and correct copy of the letter from Joshua S. Sohn to the Court, dated November 30, 2011 (without exhibits).
- 6. Attached as Exhibit E is a true and correct copy of the Declaration of Anthony Visconti, dated January 3, 2011.
- 7. Attached as Exhibit F is a true and correct copy of the Declaration of Kenneth G. Pfitzer, dated December 29, 2010.
- 8. Attached as Exhibit G is a true and correct copy of the deposition transcript of Anthony Visconti, dated November 17, 2011.
- 9. Attached as Exhibit H is a true and correct copy of the deposition transcript of Kenneth G. Pfitzer, dated November 28, 2011.
- 10. Attached as Exhibit I is a true and correct copy of the deposition transcript of Melissa Montella, dated November 18, 2011.
- 11. Attached as Exhibit J is a true and correct copy of the letter from Matthew T. Martens, Chief Litigation Counsel with the Securities and Exchange Commission to the Court, dated December 22, 2010.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: New York, New York December 14, 2011

> /s/ Joshua S. Sohn Joshua S. Sohn DLA PIPER LLP (US) 1251 Avenue of the Americas New York, New York 10020-1104 (212) 335-4500

Attorneys for Defendant Andreas Badian